

AMENDED IN SENATE MAY 7, 2013  
AMENDED IN SENATE APRIL 15, 2013  
AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 714**

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**Introduced by Senator Block**

February 22, 2013

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An act to add *and repeal* Sections 46308 and 46309 ~~to~~ of the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 714, as amended, Block. Schools: average daily attendance: online instruction.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on, among other factors, the average daily attendance of pupils at the schools operated by those agencies. Existing law authorizes, commencing with the 2014–15 school year, for purposes of computing average daily attendance, the inclusion of pupils in grades 9 to 12, inclusive, under the immediate supervision and control of a certificated employee of the school district or county office of education who is delivering synchronous, online instruction, as defined, provided that this instruction meets specified criteria.

This bill, separate from the authority related to online instruction described above, *subject to the adoption by the Superintendent of Public Instruction of implementing rules and regulations on or before January 1, 2015*, and commencing with the ~~2014–15~~ 2015–16 fiscal year, would authorize school districts, county offices of education, and charter

schools that offer high-quality online education courses, as defined, to claim ~~attendance toward average daily attendance up to 10% of the total average daily attendance of pupils enrolled in grades 9 to 12, inclusive,~~ on the basis of a pupil's satisfactory pupil progress toward obtaining a high school diploma by earning course credit through attendance in online educational learning programs, as defined. ~~The bill would require the Superintendent of Public Instruction to adopt emergency regulations, on or before June 30, 2014, authorizing a school district, county office of education, or charter school to receive state apportionments for pupils enrolled in an online course or courses. The bill would cap, as specified, the number of pupils a school district, county office of education, or charter school may enroll in an online course or courses, but would authorize an increase in that cap if the enrolled pupils are achieving or exceeding satisfactory pupil progress. The bill would also require a school district, county office of education, or charter school that did not offer an online course or courses in the 2013-14 2014-15 school year but chooses to enroll pupils in an online course or courses, to offer the course or courses at the beginning of the school year and to submit semiannual reports to the State Department of Education comparing the course credits earned by pupils enrolled in an online course or courses to the course credits earned by pupils enrolled in classroom-based courses.~~

The bill would authorize a school district, county office of education, or charter school that operates an online educational learning program to receive state apportionments *for up to 10% of the total average daily attendance of pupils enrolled in grades 9 to 12, inclusive,* for 3 consecutive years and for an additional 3 years if semiannual reports are submitted, as described above, and the enrolled pupils are achieving satisfactory pupil progress. The bill would require a school district, county office of education, or charter school that enrolls pupils in an online course or courses to develop and adopt policies that evaluate if a pupil is achieving satisfactory pupil progress and if a pupil should be allowed to continue to enroll in the online educational learning program. The bill would require a participating school district, county office of education, or charter school to submit pupil records for review by the department that compare the course completion rate of pupils participating in the online educational learning program to the overall course completion rate for pupils enrolled in grades 9 to 12, inclusive, if the pupils participating in the online educational learning program are earning less than 75% of the course credits earned by pupils enrolled

in classroom-based courses. The bill would require the department to develop a process authorizing a school district, county office of education, or charter school to reduce the state apportionment it receives for the online educational learning program if projected pupil enrollment or satisfactory pupil progress is not being achieved. The bill would authorize the department to reduce or eliminate the apportionments a school district, county office of education, or charter school receives for pupils participating in the online educational learning program if the participating pupils have not achieved satisfactory pupil progress or the semiannual reports are not submitted. The bill would authorize a school district, county office of education, or charter school to appeal a decision of the department to reduce or eliminate the state apportionments received for pupils participating in the online educational learning program.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 46308 is added to the Education Code,
- 2 to read:
- 3 46308. (a) ~~Commencing~~ *Subject to subdivision (k) and*
- 4 *commencing with the 2014–15 2015–16* fiscal year, a school
- 5 district, county office of education, or charter school may claim,
- 6 *for up to 10 percent of the total average daily attendance of pupils*
- 7 *enrolled in grades 9 to 12, inclusive, in the school district, county*
- 8 *office of education, or charter school,* state apportionments
- 9 pursuant to Section 46309, on the basis of a pupil's satisfactory
- 10 pupil progress toward obtaining a high school diploma by earning
- 11 course credit through attendance in online educational learning
- 12 programs. Online educational learning programs may include one
- 13 online course, multiple online courses, or a combination of online
- 14 coursework and classroom-based coursework. Online educational
- 15 learning programs shall be separate from online courses offered
- 16 pursuant to Section 46300.8. Pupils shall be eligible to participate
- 17 in online educational learning programs if all of the following
- 18 apply:
- 19 (1) The pupil is enrolled in grade 9, 10, 11, or 12.
- 20 (2) The pupil is a California resident.

1 (3) The pupil is enrolled in classes that include courses in a  
2 classroom-based setting, courses that are offered through an online  
3 program, or both.

4 (4) The pupil is not enrolled in a community day school or  
5 juvenile court school.

6 (5) The pupil meets minimum instructional time requirements  
7 pursuant to:

8 (A) Section 46141 and Section 46201, 46201.5, or 46202, as  
9 applicable, for pupils enrolled in a noncharter school in a school  
10 district or county office of education.

11 (B) Section 46170, for pupils enrolled in a continuation school.

12 (C) Section 46180, for pupils enrolled in an opportunity school.

13 (D) Subdivision (e) of Section 47612.5, for pupils enrolled in  
14 a charter school.

15 (6) Each online course in which the pupil is enrolled is a  
16 high-quality online course.

17 (b) For the purposes of this section, a “high-quality online  
18 course” is defined as an online course that meets all of the  
19 following requirements:

20 (1) The online course is approved by the governing board of  
21 the school district or county office of education, or by the  
22 governing body of the charter school.

23 (2) The online course is certified to meet the requirements of  
24 this subdivision, through board resolution, by the governing board  
25 of the school district or county office of education, or by the  
26 governing body of the charter school.

27 (3) The online course is certified by the governing board of the  
28 school district or county office of education, or by the governing  
29 body of the charter school, as being as rigorous as a  
30 classroom-based course and meeting or exceeding all relevant state  
31 content standards.

32 (4) (A) A teacher teaching an online course or courses operated  
33 pursuant to this section shall be accessible to each pupil enrolled  
34 in the online course or courses to respond to pupil queries, assign  
35 tasks, and dispense information. *A teacher teaching an online*  
36 *course shall provide timely feedback on communications for pupils*  
37 *within 24 hours and timely feedback for assessing pupils’ work*  
38 *within 72 hours for minor assignments and within one week for*  
39 *major assignments, including, but not limited to, midterm and final*

1 *examinations, major projects, and compositions.* A teacher teaching  
2 an online course shall employ ~~at least one~~ *all* of the following:

3 (i) Periodic proctored examinations.  
4 (ii) Direct teacher-pupil meetings, in person, no less than twice  
5 per calendar month.

6 (iii) A visual connection, including, but not limited to, an  
7 Internet Web camera.

8 ~~(iv) Timely feedback on communications for pupils within 24~~  
9 ~~hours and timely feedback for assessing pupils' work within 72~~  
10 ~~hours for minor assignments and within one week for major~~  
11 ~~assignments, including, but not limited to, midterm and final~~  
12 ~~examinations, major projects, and compositions.~~

13 ~~(B)~~

14 (5) Specific minimum standards for teacher-pupil contact ~~may~~  
15 *shall* be determined through a collective bargaining agreement.

16 ~~(5)~~

17 (6) (A) The ratio of pupils enrolled in the online course who  
18 are 18 years of age or younger to school district full-time equivalent  
19 certificated employees who provide online instruction, to be  
20 calculated in a manner prescribed by the department, shall not  
21 exceed the equivalent ratio of pupils to full-time certificated  
22 employees for all other educational programs operated by the  
23 school district, unless a higher or lower ratio is negotiated in a  
24 collective bargaining agreement.

25 (B) The ratio of pupils enrolled in the online course who are 18  
26 years of age or younger to county office of education full-time  
27 equivalent certificated employees who provide online instruction,  
28 to be calculated in a manner prescribed by the department, shall  
29 not exceed the equivalent ratio of pupils to full-time certificated  
30 employees for all other educational programs operated by the high  
31 school or unified school district with the greatest average daily  
32 attendance of pupils in that county, unless a higher or lower ratio  
33 is negotiated in a collective bargaining agreement.

34 ~~(C) The Superintendent may adopt rules and regulations for~~  
35 ~~purposes of implementing this paragraph.~~

36 (C) *The computation of the ratios in subparagraphs (A) and (B)*  
37 *shall be performed annually by the reporting agency at the time*  
38 *of, and in connection with, the second principal apportionment*  
39 *report to the Superintendent.*

40 ~~(6)~~

(7) When a classroom-based course of the same course title exists within the school district, county office of education, or charter school, the subject matter content of the online course shall meet or exceed the content standards applied to the classroom-based course.

~~(7)~~

(8) The teacher of the online course holds the appropriate subject matter credential and meets the requirements for a highly qualified teacher pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

~~(8)~~

(9) (A) Statewide testing results for pupils enrolled in an online course or courses are reported and assigned to the school in which the pupil is enrolled for classroom-based courses, and to any school district or county office of education within which that school's testing results are aggregated.

(B) Statewide testing results for pupils enrolled in an online course or courses may be disaggregated for purposes of comparing the testing results of those pupils to the testing results of pupils enrolled in classroom-based courses.

~~(9)~~

(10) The online course is offered by a high school, continuation school, county office of education, or charter school offering instruction in any of grades 9 to 12, inclusive.

~~(10)~~

(11) No pupil is assigned to the online course unless the pupil voluntarily elects to participate in the online course and the parent or guardian of the pupil provides written consent before the pupil participates in the online course.

~~(11)~~

(12) No pupil voluntarily electing to participate in the online course is denied access because the pupil lacks the computer hardware or software necessary to participate in the online course.

~~(12)~~

(13) No pupil is charged for his or her participation in the online course.

~~(13)~~

(14) A pupil enrolled in the online course shall take examinations by proctor, or other reliable methods used to ensure test integrity, and there is a clear record of pupil work, using the

1 same method of documentation and assessment as used in a  
2 classroom-based course.

3 (c) Nothing in this section shall affect a state board  
4 determination made pursuant to Section 47612.5.

5 (d) ~~Satisfactory pupil progress, as defined in paragraph (4) of~~  
6 ~~subdivision (e), and compliance with the requirements of~~  
7 ~~subdivision (e),~~ *Compliance with this section* shall be subject to  
8 the audit conducted pursuant to Section 41020.

9 (e) (1) Each high-quality online course shall be deemed to be  
10 an offering of 60 minutes for purposes of calculating instructional  
11 time.

12 (2) A pupil shall not receive course credit for the same  
13 high-quality online course more than once.

14 (3) A pupil enrolled in a high-quality online course shall be  
15 credited with a day of attendance for each schoolday the pupil is  
16 enrolled in the high-quality online course and in accordance with  
17 paragraph (5) of subdivision (a).

18 (4) “Satisfactory pupil progress” means a pupil has earned at  
19 least 60 course credits in a school year.

20 (f) To remain eligible for claiming and generating  
21 apportionments, a pupil over 19 years of age enrolled in an online  
22 course or courses shall be continuously enrolled in public school  
23 and achieve satisfactory pupil progress, as defined in paragraph  
24 (4) of subdivision (e), toward award of a high school diploma.

25 ~~(g) The Superintendent, on or before June 30, 2014, shall adopt~~  
26 ~~emergency regulations authorizing a school district, county office~~  
27 ~~of education, or charter school to receive state apportionments for~~  
28 ~~pupils enrolled in an online course or courses beginning in the~~  
29 ~~2014–15 fiscal year.~~

30 ~~(h)~~

31 (g) To receive state apportionments, a school district, county  
32 office of education, or charter school offering an online course or  
33 courses meeting the requirements of subdivision (b) shall not be  
34 required to meet the requirements of Article 5.5 (commencing with  
35 Section 51745) of Chapter 5 of Part 28.

36 ~~(i)~~

37 (h) (1) A participating school district, county office of  
38 education, or charter school shall receive state apportionments,  
39 *for up to 10 percent of the total average daily attendance for pupils*  
40 *enrolled in grades 9 to 12, inclusive, in the school district, county*

1 *office of education, or charter school*, for pupils enrolled in a  
2 high-quality online course or courses, *as defined in subdivision*  
3 *(b)*, based on the number of pupils enrolled in an online course or  
4 courses in the ~~2013–14~~ 2014–15 school year, or the percentage of  
5 pupils authorized to enroll in an online course or courses pursuant  
6 to paragraph (2), whichever is greater.

7 (2) A participating school district, county office of education,  
8 or charter school that did not offer an online course or courses in  
9 the ~~2013–14~~ 2014–15 school year shall receive state  
10 ~~apportionments~~ *apportionments*, for up to 10 percent of the total  
11 average daily attendance of pupils enrolled in grades 9 to 12,  
12 inclusive, *of the school district, county office of education, or*  
13 *charter school*, if all of the following conditions are met:

14 (A) A participating school district, county office of education,  
15 or charter school satisfies the requirements of subdivisions (a) and  
16 (b).

17 (B) A participating school district, county office of education,  
18 or charter school offers the online course or courses at the  
19 beginning of the school year and demonstrates that at least the  
20 same number of pupils that the school district, county office of  
21 education, or charter school is eligible to receive state  
22 apportionments for under an online educational learning program  
23 are actually enrolled in the online course or courses.

24 (C) The participating school district, county office of education,  
25 or charter school submits a semiannual report to the department  
26 comparing the course credits earned by pupils enrolled in an online  
27 course or courses to course credits earned by pupils enrolled in  
28 classroom-based courses.

29 ~~(j)~~

30 (i) For purposes of this section, “online educational learning  
31 program” means a program of study that may include any  
32 combination of courses where the teacher and the pupil are online  
33 at the same time or are online at different times and do not interact  
34 simultaneously. A pupil may enroll in online courses,  
35 classroom-based courses, or a combination of both, during a  
36 schoolday to complete the pupil’s established program of study  
37 that satisfies the requirement of achieving satisfactory pupil  
38 progress toward obtaining a high school diploma by earning course  
39 credits.

40 ~~(k)~~

1 (j) No provision of this section shall be waived unless the waiver  
2 is specifically authorized in statute.

3 (k) *The Superintendent, on or before January 1, 2015, shall*  
4 *adopt rules and regulations implementing this section.*

5 (l) *This section shall become inoperative on June 30, 2019, and,*  
6 *as of January 1, 2020, is repealed, unless a later enacted statute,*  
7 *that becomes operative on or before January 1, 2020, deletes or*  
8 *extends the dates on which it becomes inoperative and is repealed.*

9 SEC. 2. Section 46309 is added to the Education Code, to read:

10 46309. (a) ~~A~~ *Subject to subdivision (g), a school district,*  
11 *county office of education, or charter school that operates an online*  
12 *educational learning program is eligible to receive state*  
13 *apportionments for up to 10 percent of the total average daily*  
14 *attendance of pupils enrolled in grades 9 to 12, inclusive, of the*  
15 *school district, county office of education, or charter school,*  
16 *pursuant to Section 46308, for three consecutive years. A school*  
17 *district, county office of education, or charter school is eligible to*  
18 *receive state apportionments for an additional three years if the*  
19 *school district, county office of education, or charter school submits*  
20 *the semiannual reports described in subparagraph (C) of paragraph*  
21 *(2) of subdivision (i) (h) of Section 46308, and the pupils enrolled*  
22 *in the online course or courses are achieving satisfactory pupil*  
23 *progress, as defined in paragraph (4) of subdivision (e) of Section*  
24 *46308.*

25 ~~(b) A participating school district, county office of education,~~  
26 ~~or charter school may increase the number of pupils participating~~  
27 ~~in the online educational learning program by up to 100 percent~~  
28 ~~of the number of pupils participating in the first year if the pupils~~  
29 ~~participating in the online educational learning program achieve~~  
30 ~~or exceed satisfactory pupil progress, as defined in paragraph (4)~~  
31 ~~of subdivision (e) of Section 46308. The department shall make~~  
32 ~~this determination.~~

33 (e)

34 (b) A participating school district, county office of education,  
35 or charter school shall develop and adopt policies that evaluate if  
36 a pupil is achieving satisfactory pupil progress, as defined in  
37 paragraph (4) of subdivision (e) of Section 46308, and if a pupil  
38 should be allowed to continue to participate in the online  
39 educational learning program.

40 ~~(d)~~

(c) If, in any year of participation, the pupils participating in an online educational learning program offered by a school district, county office of education, or charter school are earning less than 75 percent of the course credits earned by pupils enrolled in classroom-based courses, the participating school district, county office of education, or charter school shall submit pupil records for review by the department that compare the course completion rate of pupils participating in the online educational learning program to the overall course completion rate for pupils enrolled in grades 9 to 12, inclusive, in the participating school district, county office of education, or charter school.

~~(e)~~

(d) The department shall develop a process authorizing a school district, county office of education, or charter school, to voluntarily reduce the state apportionments received for the online educational learning program if projected pupil enrollment is not achieved, or the pupils are not achieving satisfactory pupil progress, as defined in paragraph (4) of subdivision (e) of Section 46308.

~~(f)~~

(e) The department may reduce or eliminate the state apportionments a participating school district, county office of education, or charter school receives for pupils participating in an online educational learning program if the pupils have not achieved satisfactory pupil progress, as defined in paragraph (4) of subdivision (e) of Section 46308, for three consecutive years or the school district, county office of education, or charter school does not comply with the semiannual reporting requirements described in subparagraph (C) of paragraph (2) of subdivision ~~(i)~~ (h) of Section 46308. The department shall review the pupil records of pupils participating in the online educational learning program to make this determination. If the department decides to eliminate the state apportionments a participating school district, county office of education, or charter school receives for pupils participating in an online educational learning program, the state apportionments shall be eliminated in the year following the year the department decides to eliminate the state apportionments. A participating school district, county office of education, or charter school may appeal to the state board the decision of the department to reduce or eliminate the state apportionments a participating school district, county office of education, or charter school

1 receives for pupils participating in an online educational learning  
2 program.

3 *(f) Compliance with this section shall be subject to the audit*  
4 *conducted pursuant to Section 41020.*

5 *(g) The Superintendent, on or before January 1, 2015, shall*  
6 *adopt rules and regulations implementing this section.*

7 *(h) This section shall become inoperative on June 30, 2019,*  
8 *and, as of January 1, 2020, is repealed, unless a later enacted*  
9 *statute, that becomes operative on or before January 1, 2020,*  
10 *deletes or extends the dates on which it becomes inoperative and*  
11 *is repealed.*